

KABC010294192025



IN THE COURT OF THE II ADDL. CITY CIVIL JUDGE
AT BANGALORE CITY
(CCH-17)

DATED THIS THE 6th DAY OF FEBRUARY, 2026.

PRESENT

Sri. Padma Prasad, B.A.Law.LL.B.
II Addl. City Civil and Sessions Judge, Bangalore.

O.S. No.8014/2025

PLAINTIFF: **Smt. Lalitha K**
W/o Nagaraj S
Aged about 39 years
Now residing at No.18/1
1st stage, 2nd phase
Gokula, Divanarapalya
Bengaluru – 560 054.

(By Sri.RSN, Advocate)

V/s.

DEFENDANTS: **1) Murali Mohan Yadav K**
S/o Krishnappa
Aged about 34 years.

2) N. Bharathalakshmi
W/o Krishnappa
Aged about 65 years

Both are residing at @ 18
1st stage, 2nd phase
Gokula, Divanarapalya

Bengaluru – 560 054.

(By Sri.MAS, Advocate)

PARTIES IN I.A. No.1 & 2

APPLICANTS/
PLAINTIFF Smt. Lalitha K

Versus

OPPENANTS/
DEFENDANTS Murali Mohan Yadav K and another

ORDERS ON I.A. No.1 and 2

I.A.No.1 filed by the plaintiff under Order 39 Rules 1 and 2 of Civil Procedure Code praying to restrain the defendants or anybody claiming under them from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property.

.2. Interlocutory Application No.2 filed by the plaintiff under Order 39 Rules 1 and 2 of CPC praying to restrain the defendants or anybody claiming under them from laying any foundation or put up any construction in the suit schedule property.

.3. The said applications are supported with almost identical affidavits of plaintiff, wherein, she stated that she has acquired the suit schedule property under a registered Gift Deed dated 22.11.2007 executed by her father in her favour. Accordingly on the basis of the said registered Gift Deed, the suit schedule property was changed to her name in the revenue records. The plaintiff further claims that the site bearing No.18 originally measuring East to West 50 feets and North to South 30 feets and out of which, half portion i.e., East to West 50 feets and North to South 15 feets have been gifted to her under the aforesaid Gift Deed and remaining half portion of the property was gifted by her father to the defendants.

.4. The claim of the plaintiff in the Interlocutory Applications is that the defendants are intentionally interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property and they are laying foundation without leaving any set backs

and also without giving any proper safety to the plaintiff's property. The plaintiff also claims that there was a AC sheet roofed house in the suit schedule property and the defendants are not giving any protection of the said property and the defendants are deeply digging the northern side of the suit schedule property. Accordingly prayed to restrain the defendants as prayed in Interlocutory Application No.1 and 2.

.5. The defendants filed separate objections to the Interlocutory Application No.1 and 2, which are almost identical to each other. The claim of the defendants in their objection is that the plaintiff is in possession and enjoyment of the property bearing site No. 18/1 and these defendants are in possession and enjoyment of the site No. 18. The defendants also claim that they have acquired the right over their property which is adjacent to the property of the plaintiff under a registered Gift Deed dated 22.11.2007. The defendants also admits that the

property in site No. 18 was originally measuring 50 X 30 feet and out of which, half portion of the property gifted to the plaintiff and remaining half portion of the property gifted to the defendants. The defendants also claim that they are putting up construction by obtaining necessary permission and as per sanctioned plan and also claim that they are not interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property and denied all the allegations and prayed to dismiss the Interlocutory Applications.

.6. On the basis of the above, the points for consideration are as under:

- (1) Whether the plaintiff has made-out a prima-facie case for granting an order of temporary injunction as prayed in I.A.No.1 and 2 ?
- (2) Whether the plaintiff proves that the balance of convenience tilt in her favour ?
- (3) Whether the plaintiff proves that the temporary injunction if not granted, the plaintiff will be put to great hardship, irreparable loss and injury ?

(4) What order?

.7. Heard the arguments, perused the materials placed on record, on that basis, my findings to the above points are as under:

Point No.1 to 3: In the negative

Point No.4: As per final order for the following:

REASONS

.8. **POINT NO.1 to 3:** The plaint case in nutshell is that the plaintiff is a daughter of one Krishnappa and defendant No.2 Smt. Bharathalakshmi. The defendant No.1 is the brother of plaintiff and the son of defendant No.2. The propositus of the plaintiff and the defendants namely Krishnappa owned a property bearing site No. 18 measuring East to West 50 feet and North to South 30 feet. The said propositus of parties to the suit namely Krishnappa gifted half portion of the said property measuring East to West 50 feet and North to South 15 feet to the plaintiff and remaining half portion of the

said property was gifted to the defendants 1 and 2 by executing the registered gift deeds respectively. Therefore, there is no dispute between parties that the site No.18 originally belongs to the said Krishnappa and he has gifted the property equally to the plaintiff and the defendants.

.9. The plaintiff in the plaint also claimed that there was a AC sheet roofed house in the property gifted to her. Therefore, the plaintiff already put up construction of house in the property gifted to her by her father.

.10. The claim of the plaintiff or the grievance of the plaintiff in the plaint as well as Interlocutory Application No.1 and 2 is that the defendants are trying to interfere with her peaceful possession and enjoyment over the suit schedule property with the claims that the defendants are digging foundation in order to put up a construction in their property and construction of the defendants is an illegal construction without obtaining necessary permission

and also without sanctioned plan. At this juncture, it is relevant to note that the defendants are not at all putting up any construction over the property of plaintiff and it is also not the case of the plaintiff that the defendants are trying to put up the construction by encroaching her property. Admittedly and undisputedly the plaintiff already put up a AC sheet roofed house in her property. Hence the question of defendants putting up construction by encroaching the property of the plaintiff does not arise at all. It is also not the case of the plaintiff either in the plaint or in Interlocutory Applications that the defendants are encroaching the property of plaintiff and putting up construction by encroaching her property. Therefore, it has to be accepted at this juncture that the defendants are putting up construction in the property belongs to them that has been gifted to them by Krishnappa.

.11. In this case, the plaintiff lodged the complaint before the BBMP and the jurisdictional

police station with claim that defendants are interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property and causing danger to her property by digging foundation. Per contra, the claim of the defendants is that they have obtained necessary permission and after obtaining necessary permission from the competent authority, they are putting up their construction in their property as per sanctioned plan.

.12. In support of the defence contention, the defendants have produced copy of the licence issued by the BBMP permitting them to put up construction and also produced sanction plan. These two documents at this juncture prima-facie shows that the defendants are putting up their construction by obtaining necessary permission and in accordance with law and further the photographs produced by the defendants sufficiently shows that they have covered/filled the digged portion of land to put up the foundation and foundation work also completed and

now the structures to be completed over the foundation. Therefore, danger appears to be found in the photographs produced by the plaintiff has been cleared by the defendants by completion of the foundation work.

.13. The photographs produced by the defendants also shows that there is a gap between asbestos cement sheet roofed house of plaintiff and the new construction of the defendants. At this juncture, it is relevant to note that dimension of the property in Site No. 18 was 50 X 30 feet that has been divided into 50 X 15 feet each. Therefore, considering the said measurement, the photographs at this juncture prima-facie shows that there is a gap between structures of the plaintiff and the defendants. Therefore, at this juncture, the defendants made out sufficient grounds to show that they are putting up their construction in their own property by obtaining required building licence and sanctioned plan and they are not encroaching the property of the plaintiff. Therefore,

this Court is of the humble opinion that the plaintiff has failed to make out prima-facie case in support of Interlocutory Application No.1 and 2.

.14. In view of the aforesaid detailed reasons, it is clear that the plaintiff has failed to make out prima-facie case in support of her claim in the suit and IAs. When the plaintiff failed to make out a prima-facie case, certainly balance of convenience will not tilt in favour of plaintiff.

.15. One more point to be considered is that whether there will be any irreparable loss or hardship will be caused to the plaintiff if temporary injunction is not granted. As discussed above, the defendants are putting up their construction in their own property that has been gifted to them and the said gift deed as well as the title of defendant over the property in which the defendants are putting up the construction is admitted by the plaintiff in the suit. Further if the defendants are not permitted to complete their construction, certainly that may cause injury to the

structure of the plaintiff and as the defendants are putting up their construction in their own property not encroaching the property of the plaintiff certainly no hardship or irreparable loss or injury will be caused to the plaintiff. If the temporary injunction is not granted, certainly plaintiff will not be put to great hardship, irreparable loss and injury, per contra the temporary injunction is issued that will cause hardship and loss to the defendants. In the mean time the defendants may be directed to take care of the property of the plaintiff not to cause any injury / damage to the property of the plaintiff while putting up their construction in their property. Accordingly, the above point No.1 to 3 answered in **negative**.

.16. **Point No.4:-** In view of my findings on the above points 1 to 3, I proceed to pass the following:

ORDER

I.A.No.1 and 2 filed under Order 39 Rules 1 and 2 of C.P.C., by the plaintiff are hereby dismissed.

The defendants are directed to take care of the property of the plaintiff not to cause any injury / danger to the property of the plaintiff while putting up the construction of their house in their property.

(Dictated to the Stenographer Grade-I, transcribed by her, revised by me and after corrections, pronounced in open Court on this the 6th day of February, 2026)

(Padma Prasad)
II Addl. C.C. and Sessions Judge,
& Spl. Judge, Bengaluru.

**ORDER PASSED IN THE OPEN COURT,
VIDE SEPARATE ORDER**

I.A.No.1 to 6 filed by the plaintiffs under Order 39 Rules 1 and 2 of C.P.C. is hereby allowed.

Consequently, the defendants are restrained from giving effect to the termination of plaintiffs membership vide order dated: 07.12.2025, the defendants shall not obstruct the plaintiffs from entering the club premises and exercising rights flowing from their membership and the defendants are restrained from publishing or circulating the articles against the plaintiffs till the completion of enquiry of misappropriation claimed by the defendants or till the disposal of the suit whichever is earlier as prayed in respective I.As.

Call on for Written Statement by :
24.02.2026.

(Padma Prasad)
II Addl. C.C. and Sessions Judge,
& Spl. Judge, Bengaluru.

